

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

V.

JOSEPH DIFLUMERA
Defendant

) Criminal Number: **04-CR-40002-NMG**

)

) Violations:

)

) 18 U.S.C. §§ 1951

) 1341, 1343, 1952 and 2 -

) Interference with Commerce

) By Extortion (Hobbs Act),

) Mail and Wire Fraud, and

) Interstate Travel In Aid of

) Racketeering.

SECOND SUPERSEDING INDICTMENT

**COUNT ONE: (Title 18, United States Code, Section 1951 --
Hobbs Act Extortion)**

The Grand Jury charges that:

Between January 1989 and September 8, 2003, in Worcester
County and elsewhere in the District of Massachusetts, the
defendant,

JOSEPH DIFLUMERA,

and others did knowingly obstruct, delay and affect commerce, as
that term is defined in Title 18, United States Code, Section
1951(b)(3), and the movement of articles and commodities in
commerce, by extortion, as that term is defined in Title 18,
United States Code, Section 1951(b)(2), in that he did attempt to
and did obtain property, to wit, in excess of \$1,000,000 from
Victory Distributors, Inc. with its consent, which consent had
been induced through the wrongful use of actual and threatened

force, violence and fear, including fear of economic harm.

In violation of Title 18, United States Code, Sections 1951 and 2.

COUNTS TWO through SIX: (Title 18, United States Code, Section 1341 -- Mail Fraud)

The Grand Jury charges that:

Between January 1989 and September 8, 2003, in Worcester County and elsewhere in the District of Massachusetts, the defendant,

JOSEPH DIFLUMERA,

and others, knowingly devised a scheme and artifice to defraud Victory Distributors Inc. and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises by falsely stating to officers of Victory Distributors Inc. that he could and would influence the United Food and Commercial Workers Union and Local 1445 so that said labor unions would not seek to organize the workers at Victory Distributors Inc.

For the purpose of executing the scheme and artifice, and attempting to do so, in the District of Massachusetts and elsewhere, the defendant

JOSEPH DIFLUMERA

knowingly placed in a post office and authorized depository for mail matter and caused to be delivered by mail, matters and things whatever to be sent and delivered by the Postal Service and any private or commercial interstate carrier, as set forth below:

<u>Count</u>	<u>Approx. Date</u>	<u>Subject Matter</u>
2	4/18/03	Letter from defendant to Victory Distributors Inc.
3	6/26/03	Victory Distributors Inc. letter and two checks payable to defendant.
4	7/25/03	Copy of letter from "Tom" to defendant.
5	8/01/03	Check from Victory Distributors Inc. to defendant.
6	8/28/03	Check from Victory Distributors Inc. to defendant.

In violation of Title 18, United States Code, Sections 1341 and 2.

**COUNT SEVEN: (Title 18, United States Code, Section 1343 -
Wire Fraud)**

The Grand Jury charges that:

Between January 1989 and September 8, 2003, in Worcester County and elsewhere in the District of Massachusetts, the defendant,

JOSEPH DIFLUMERA,

and others, knowingly devised a scheme and artifice to defraud Victory Distributors Inc. and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises by falsely stating to officers of Victory Distributors Inc that he could and would influence the United Food and Commercial Workers Union and Local 1445 so that said labor unions would not seek to organize the workers at Victory Distributors Inc.

For the purpose of executing the scheme and artifice, and attempting to do so, in the District of Massachusetts and elsewhere, the defendant

JOSEPH DIFLUMERA

knowingly transmitted and caused to be transmitted by means of wire communication in interstate commerce, any sounds, as set forth below:

<u>Count</u>	<u>Approx. Date</u>	<u>Subject Matter</u>
7	8/26/03	Telephone conversation from Massachusetts to Florida concerning payment of monies to Defendant.

In violation of Title 18, United States Code, Sections 1343
and 2.

COUNTS EIGHT through ELEVEN : (Title 18, United States Code, Section 1952 -- Interstate Travel in Aid of Racketeering Enterprises)

The Grand Jury charges that:

Between January 1989 and September 8, 2003, in Worcester County and elsewhere in the District of Massachusetts, the defendant,

JOSEPH DIFLUMERA,

and others did knowingly travel in interstate commerce from Florida to Massachusetts to receive money from Victory Distributors Inc., with its consent, which consent had been induced through the wrongful use of actual and threatened force, violence and fear, including threats to cause labor problems and other economic harm, with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of an unlawful activity, that is, extortion in violation of the laws of Massachusetts, namely Chapter 265, Massachusetts General Laws, Section 25, and of Title 18, United States Code, Section 1951, and did thereafter perform and cause the performance of acts to promote, manage, establish and carry on, and facilitate the promotion, management, establishment and carrying on of said unlawful activity.

<u>Count</u>	<u>Approx. Date</u>	<u>Travel From/To</u>
8	6/20/03	Florida to Massachusetts
9	7/03/03	Florida to Massachusetts
10	8/12/03	Florida to Massachusetts

11 9/04/03 Florida to Massachusetts

In violation of Title 18, United States Code, Sections
1952(a)(3) and 2.

FORFEITURE ALLEGATIONS

(18 U.S.C. § 981 and 28 U.S.C. § 2461(c))

1. As a result of the offenses in violation of 18 U.S.C. § 1951 (Hobbs Act extortion) charged in Count one of this Indictment, the defendant,

JOSEPH DIFLUMERA

shall forfeit all property, real and personal, that constitutes, or is derived from, proceeds traceable to the commission of the offense.

2. As a result of the offenses in violation of 18 U.S.C. § 1341 (mail fraud) charged in Counts two through six of this Indictment, the defendant,

JOSEPH DIFLUMERA

shall forfeit all property, real and personal, that constitutes, or is derived from, proceeds traceable to the commission of the offense.

3. As a result of the offenses in violation of 18 U.S.C. § 1343 (wire fraud) charged in Count seven of this Indictment, the defendant,

JOSEPH DIFLUMERA

shall forfeit all property, real and personal, that constitutes, or is derived from, proceeds traceable to the commission of the offense.

4. As a result of the offenses in violation of 18 U.S.C. § 1952 (interstate travel in aid of racketeering) charged in Counts

eight through eleven of this Indictment, the defendant,

JOSEPH DIFLUMERA

shall forfeit all property, real and personal, that constitutes, or is derived from, proceeds traceable to the commission of the offense.

5. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

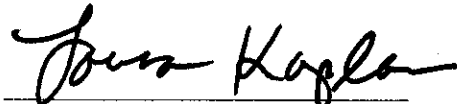
it is the intent of the United States, pursuant to 21 U.S.C.

§ 853(p), incorporated by 28 U.S.C. § 2461(c), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Section 982 and
Title 28, United States Code, Section 2461(c).

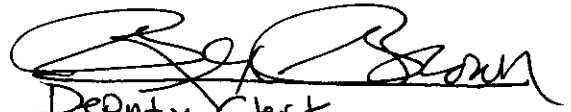
A TRUE BILL


FOREPERSON OF THE GRAND JURY


LAURA J. KAPLAN
Assistant U.S. Attorney

DISTRICT OF MASSACHUSETTS; April 14, 2005. @ 11:31 AM

Returned into the District Court by the Grand Jurors
and filed.


Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

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JOSEPH DIFLUMERA
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) Violations:

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) 18 U.S.C. §§ 1951

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) Interference with Commerce

) By Extortion (Hobbs Act),

) Mail and Wire Fraud and

) Interstate Travel in Aid of

) Racketeering .

I, the undersigned foreperson of the Grand Jury of this court, at the term begun and held at Boston on the 14th day of April, A.D. 2005, in pursuance of Rule 6(e) of the Federal Rules of Criminal Procedure, do herewith file with the Clerk of the Court a record of the above case, this record not to be made public except on order of the court, to wit:

14

grand jurors concurring in the indictment.

George E. Tynan

Foreperson of the Grand Jury

JS 45 (5/97) - (Revised USAO MA 3/25/02) Page 2 of 2 or Reverse

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Joseph DiFlumcra

		U.S.C. Citations	
	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>18 USC 1951 and 2</u>	<u>Hobbs Act Extortion</u>	<u>1</u>
Set 2	<u>18 USC 1341 and 2</u>	<u>Mail Fraud</u>	<u>2-6</u>
Set 3	<u>18 USC 1343 and 2</u>	<u>Wire Fraud</u>	<u>7</u>
Set 4	<u>18 USC 1952</u>	<u>Interstate Travel in Aid of Racketeering Enterp.</u>	<u>8-11</u>
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION:

JS 45 (5/97) - (Revised USAO MA 6/29/04)

Criminal Case Cover Sheet

U.S. District Court - District of Massachusetts

Place of Offense: _____ Category No. II Investigating Agency DOL

City Leominster Related Case Information:

County Worcester Superseding Ind./ Inf. Sec. Superseding Case No. 04-40002(NMG)
 Same Defendant X New Defendant _____
 Magistrate Judge Case Number 03-1719(CBS)
 Search Warrant Case Number _____
 R 20/R 40 from District of _____

Defendant Information:

Defendant Name Joseph DiFlumera Juvenile ☐ Yes ☒ No

Alias Name _____

Address 24 Oak Brook Dr., Ormond Beach, Florida

Birth date (Year only): 1934 SSN (last 4 #): 7116 Sex M Race: White Nationality: US

Defense Counsel if known: Paul V. Kelly, Esq. Address: 175 Federal Street
Boston, MA

Bar Number: _____

U.S. Attorney Information:

AUSA Laura J. Kaplan Bar Number if applicable _____

Interpreter: ☐ Yes ☒ No List language and/or dialect: _____

Matter to be SEALED: ☐ Yes ☒ No

☐ Warrant Requested ☒ Regular Process ☐ In Custody

Location Status:

Arrest Date: 09/08/03

☐ Already in Federal Custody as _____ in _____
☐ Already in State Custody _____ ☐ Serving Sentence ☐ Awaiting Trial
☒ On Pretrial Release: Ordered by J. Swartwood on 09/08/03

Charging Document: ☐ Complaint ☐ Information ☒ Indictment

Total # of Counts: ☐ Petty ☐ Misdemeanor ☒ Felony 11

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.

Date: April , 2005 Signature of AUSA: Laura Kaplan (H3)